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Document

Distr.
LIMITED

E/CN.4/1994/L.40
28 February 1994

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fiftieth session
Agenda item 12

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Pakistan: draft resolution

Situation of human rights in Jammu and Kashmir

The Commission on Human Rights,

Recognizing the need for the universal promotion and protection of fundamental human rights as defined in the Universal Declaration of Human Rights and other instruments, covenants and declarations on human rights,

Noting the persistent and well-documented reports of massive human rights violations in Jammu and Kashmir,

1. Reaffirms the fundamental human rights of the people of Jammu and Kashmir;

2. Expresses its grave concern at the gross and consistent violations of the human rights of the people of Jammu and Kashmir;

3. Decides to send a fact-finding mission to Jammu and Kashmir to investigate and report on the human rights situation there to the General Assembly at its forty-ninth session;

4. Also decides to consider the situation of human rights in Jammu and Kashmir at its fifty-first session.

300

Distr.
LIMITED

E/CN.4/1994/L.41
28 February 1994

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fiftieth session
Agenda item 17

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-FIFTH SESSION

Australia, Brazil, Canada, Chile, Colombia, Costa Rica, Denmark*, Finland, Greece*, Hungary, Mexico, New Zealand*, Norway*, Russian Federation, Sweden*: draft resolution

Report of the Working Group on Indigenous Populations of the Sub-Commission on Prevention of Discrimination and Protection of Minorities

The Commission on Human Rights,

Recalling Economic and Social Council resolution 1982/34 of 7 May 1982, in which the Council authorized the Sub-Commission on Prevention of Discrimination and Protection of Minorities to establish annually a working group on indigenous populations with the mandate to review developments pertaining to the promotion and protection of the human rights and fundamental freedoms of indigenous people, giving special attention to the evolution of standards concerning the rights of indigenous people,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Recalling also its resolution 1988/44 of 8 March 1988, in which it urged the Working Group on Indigenous Populations to intensify its efforts in carrying out its plan of action and to continue the elaboration of international standards in this field,

Having examined the report of the Working Group on its eleventh session (E/CN.4/Sub.2/1993/29 and Add.1),

Conscious that, in various situations, indigenous people are unable to enjoy their inalienable human rights and fundamental freedoms,

Determined to do everything possible to promote the enjoyment of the human rights and fundamental freedoms of indigenous people,

Bearing in mind that international standards must be developed on the basis of the diverse realities of indigenous people in all parts of the world,

Bearing in mind also the completion by the Working Group on Indigenous Populations of its work on a text for a draft declaration on the rights of indigenous people, reflective, inter alia, of the value and diversity of cultures and the forms of social organization of indigenous people,

1. Takes note of the report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its forty-fifth session (E/CN.4/1994/2-E/CN.4/Sub.2/1993/45);

2. Expresses its appreciation and satisfaction to the Working Group on Indigenous Populations of the Sub-Commission for its valuable work;

3. Also expresses its appreciation to observers participating in the eleventh session of the Working Group on Indigenous Populations, representatives of Governments, the specialized agencies, non-governmental organizations and indigenous organizations for their active and constructive participation in its work;

4. Notes the decision of the Sub-Commission:

(a) To postpone until its forty-sixth session consideration of the draft declaration prepared by the Working Group;

(b) To request the Secretary-General to submit the draft declaration to the appropriate services within the Centre for Human Rights for its technical revision;

(c) To request the Secretary-General to transmit the technically revised text of the draft declaration to Governments, intergovernmental and non-governmental organizations and to indigenous people and organizations no later than 31 March 1994 and to note explicitly that no further amendments to the technically revised text will be accepted during the future proceedings of the Working Group but that the report of the Working Group on its twelfth session will contain a summary of general views expressed by the participants on the draft declaration;

5. Urges the Sub-Commission to complete its consideration of the draft declaration and submit to the Commission on Human Rights at its fifty-first session the draft declaration together with any recommendations thereon;

6. Recommends to the Economic and Social Council that:

(a) The Working Group be authorized to meet for five working days prior to the forty-sixth session of the Sub-Commission;

(b) Upon final adoption of the draft declaration by the General Assembly, it be issued as a United Nations sales publication so as to ensure its widest distribution;

7. Invites the Working Group to take into account in its deliberations on developments pertaining to the promotion and protection of the human rights of indigenous people the work, within the framework of their respective mandates, of all thematic special rapporteurs, special representatives, independent experts and working groups as it pertains to the situation of indigenous people;

8. Urges the Working Group to continue its comprehensive review of developments and of the situation and aspirations of indigenous people throughout the world;

9. Requests the Secretary-General to give all the necessary resources and assistance to the Working Group in discharging its tasks, including adequate dissemination of information about the activities of the Working Group to Governments, specialized agencies and non-governmental and indigenous organizations, in order to encourage the widest possible participation in its work;

10. Requests the Secretary-General:

(a) To transmit the reports of the Working Group to Governments, indigenous organizations and intergovernmental and non-governmental organizations, as soon as possible, for specific comments and suggestions;

(b) To ensure that all meetings of the Working Group at its twelfth session are provided with interpretation and documentation;

11. Expresses its gratitude and appreciation to the Governments and organizations that have made contributions to the United Nations Voluntary Fund for Indigenous Populations;

12. Appeals to all Governments, organizations and individuals in a position to do so to consider favourably requests for further contributions to the Fund;

13. Authorizes the Chairperson-Rapporteur of the Working Group on Indigenous Populations to represent the Working Group at the International Conference on Population and Development to take place at Cairo from 6-13 September 1994;

14. Expresses its appreciation to the Special Rapporteur, Mrs. Erica-Irene Daes, for her timely completion of the study on measures to strengthen respect for the cultural property of indigenous people (E/CN.4/Sub.2/1993/28);

15. Endorses the proposal, made by the Sub-Commission at its forty-fifth session, to hold a seminar on indigenous land rights and claims, within existing resources, with the participation of representatives of Governments, indigenous people and experts;

16. Encourages all the initiatives that can be taken by Governments, indigenous organizations and non-governmental organizations to ensure the full participation of indigenous people in the activities related to the tasks of the Working Group.

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(30)

Distr.
LIMITED

E/CN.4/1994/L.42
28 February 1994

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fiftieth session
Agenda item 10

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Australia, Austria, Cameroon, Costa Rica, Czech Republic*, France Germany, Hungary, Ireland*, Italy, Liechtenstein*, New Zealand* Philippines*, Portugal*, Republic of Korea, Slovakia*, Sweden* Ukraine*, United Kingdom of Great Britain and Northern Ireland: draft resolution

Staff members of the United Nations and of the specialized agencies in detention

The Commission of Human Rights,

Recalling General Assembly resolutions 42/219 of 21 December 1987, 43/225 of 21 December 1988, 44/186 of 19 December 1989, 45/240 of 21 December 1990, in which the Assembly deplored the increase in the number of cases where the functioning, safety and well-being of officials had been adversely affected, including cases of detention in Member States and abduction by armed groups and individuals, and the increasing number of cases in which the lives and well-being of officials had been placed in jeopardy during the exercise of their official functions,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Recalling its resolution 1993/39 of 5 March 1993, in which it requested the Secretary-General to submit to the Commission at its fiftieth session an updated version of the report on the situation of United Nations staff members, experts and their families detained, imprisoned, missing or held in a country against their will,

Aware of the need to update and strengthen the relevant international legal instruments, and taking note of the decision of the General Assembly, contained in its resolution 48/37 of 9 December 1993, to establish an ad hoc committee to elaborate an international convention dealing with the safety and security of United Nations and associated personnel, with particular reference to responsibility for attacks on such personnel,

Considering that at a time when the United Nations is undertaking greater responsibilities in various parts of the world, particularly in peace-keeping missions and humanitarian operations in difficult conditions, it is imperative that its staff members be able to perform their duties with the assurance that their human rights, privileges and immunities will be fully respected, in accordance with the relevant provisions of the Charter of the United Nations and other international instruments,

Gravely concerned that a significant number of United Nation staff members, experts and their families continue to be detained, imprisoned, missing or held in a country against their will,

Gravely concerned also that a significant number of United Nations staff members, recruited nationally or internationally, and other personnel acting under the authority of the United Nations and their families have been killed since January 1993,

Noting the need for updated and complete information on the situation of United Nations staff members, experts and their families detained, imprisoned, missing or held in a country against their will,

Convinced that a better coordinated and more detailed reporting system, with a better dialogue between the United Nations and the host country, may contribute to a faster solution of cases,

Preoccupied by the inordinate delays and obstacles which different organizations of the United Nations system face when trying to exercise fully the right of functional protection of their staff members,

Greatly appreciating the efforts of the Secretary-General to promote a satisfactory resolution of all cases of this kind, and noting that these efforts have already produced concrete results concerning the security of United Nations staff members, experts and their families,

Having examined the updated report by the Secretary-General on detention of international civil servants and their families (E/CN.4/1994/30 and Corr.1);

1. Takes note with interest of the updated report of the Secretary-General;

2. Again requests the Secretary-General to take steps aimed at ensuring the application without delay of all the recommendations contained in the final report of the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the protection of the human rights of United Nations staff members, experts and their families (E/CN.4/Sub.2/1992/19);

3. Appeals once again to Member States to respect and to ensure respect for the rights of staff members and other personnel acting under the authority of the United Nations and their families and to take the necessary measures to ensure the protection of United Nations and associated personnel in their territory;

4. Requests the Secretary-General to continue his efforts to ensure that the human rights, privileges and immunities of United Nations staff members, experts and their families are fully respected and to seek redress and compensation of the damage caused to them, as well as their full reintegration, when their human rights, privileges and immunities have been violated;

5. Urges Member States, in accordance with the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (General Assembly resolution 43/173, annex), to provide adequate and prompt information concerning the arrest or detention of United Nations staff members,

experts and their families, and to grant the representative of the competent international organization access to them without delay;

6. Also urges Member States to allow medical teams to investigate the health of staff members, experts and their families who are being detained in order to provide them with the necessary medical assistance;

7. Calls upon Member States to allow the representative of the competent international organization to attend any hearing concerning United Nations staff members, experts and their families;

8. Requests the existing human rights mechanisms, including the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the question of torture and the Special Rapporteur on extrajudicial, summary or arbitrary executions, to examine as appropriate the cases involving the human rights of staff members of the United Nations system and their families, as well as experts, special rapporteurs and consultants, and to transmit the relevant part of their reports to the Secretary-General for inclusion in his report to the Commission on Human Rights;

9. Welcomes the decision of the General Assembly, contained in its resolution 48/37 of 9 December 1993, to establish an ad hoc committee to elaborate an international convention dealing with the safety and security of United Nations and associated personnel, with particular reference to responsibility for attacks on such personnel, and considers that the timely elaboration of such a convention will contribute to the improvement of the situation;

10. Requests the Secretary-General to submit to the Commission at its fifty-first session an updated version of the report on the situation of United Nations staff members, experts and their families detained, imprisoned, missing or held in a country against their will, including those cases which have been successfully settled since the presentation of the last report, as well as on the implementation of the measures referred to in the present resolution.

Distr.
LIMITED

E/CN.4/1994/L.43
28 February 1994

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fiftieth session
Agenda item 10

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Argentina*, Armenia*, Austria, Netherlands, Portugal*, Russian Federation, Slovakia*: draft resolution

Human rights and forensic science

The Commission on Human Rights,

Recalling its resolution 1993/33 of 5 March 1993,

Welcoming the report of the Secretary-General on human rights and forensic science (E/CN.4/1994/24), submitted pursuant to its resolution 1993/33,

Welcoming also the preliminary list of organizations and individual experts in forensic science compiled by the Secretary-General in his report and also the organizations mentioned in his previous report (E/CN.4/1993/20),

Expressing its gratitude to the Governments and organizations that recommended names of organizations and experts for the preliminary list,

Conscious that other organizations and individual experts in forensic science should be added to the preliminary list,

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* In accordance with rule 69, para. 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Welcoming the contacts maintained by the Working Group on Enforced or Involuntary Disappearances with certain organizations and individuals in the field of forensic science and human rights and the elaboration by the Working Group of a preliminary scheme for establishing a standing team of forensic experts,

Noting that the need by Governments, intergovernmental organizations and non-governmental organizations for forensic scientific expertise in investigating deaths and clarifying disappearances has been emphasized in the reports of the Working Group and of the Special Rapporteur on extrajudicial, summary or arbitrary executions, as well as those of various country rapporteurs,

Noting also that forensic science can help to reunite children of disappeared persons forcefully separated from their parents with their surviving relatives,

Noting further that forensic medicine is an important tool in detecting evidence of torture,

Noting that in many of the countries concerned, sufficient expertise in forensic science and related fields to investigate human rights violations effectively is not available,

Recognizing that training of local teams in responsible exhumation and identification procedures is a prerequisite for the effective investigation of human rights violations,

Aware that a number of Governments have requested the Secretary-General to provide technical assistance in this regard,

Also aware of the experience of the Commission of Experts established pursuant to Security Council resolution 780 (1992) of 6 October 1992 and other United Nations fact-finding investigations supporting the need for a list of experts in forensic science,

Further aware that several special rapporteurs have welcomed efforts towards the institution of a standing team of forensic experts to assist them in carrying out their human rights mandates,

Recalling the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council in its resolution 1989/65 of 24 May 1989,

Considering the proposed model autopsy protocol prepared under United Nations auspices contained in the Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (United Nations publication, Sales No. E.91.IV.1),

1. Invites States to take measures to introduce into their rules and practices the international standards set forth in the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, as well as the model autopsy protocol set forth in the Manual on the Effective Prevention and Investigation of Extra-legal Arbitrary and Summary Executions;

2. Requests the Secretary-General again to consult with Governments, relevant United Nations bodies, professional organizations of forensic experts, the organizations mentioned in his reports of 1993 and 1994, and other interested institutions with a view to:

(a) Identifying individual experts who might be asked to join forensic teams or to provide advice or assistance to thematic or country mechanisms, advisory services and technical assistance programmes;

(b) Submitting biographical data on the experts, including professional qualifications, current employment, contact address, gender (the nomination of female experts is encouraged) and the kinds of assistance they could provide; and

(c) Seeking their advice as to the elaboration of principles, guidance, procedures, mechanisms and training, in addition to the Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions;

3. Also requests the Secretary-General to continue efforts to establish, on the basis of these consultations and on the basis of continuing efforts on the part of the Working Group on Enforced or Involuntary Disappearances, to render active assistance, a list of forensic experts and experts in related fields who could be requested to help international mechanisms in the field of human rights, Governments and the Centre for Human Rights in providing technical and advisory services, advice in regard to the monitoring of human rights violations and training of local teams and/or assistance in the reunification of families of the disappeared;

4. Further requests the Secretary-General annually to update and to make this list available to the special rapporteurs and experts of the United Nations human rights mechanisms so that they may request these forensic experts to assist them in evaluating documents and other evidence and to accompany them on country visits;

5. Requests the Secretary-General to provide appropriate resources, within existing overall United Nations resources, to fund the activities of the Centre for Human Rights in implementing the present resolution;

6. Also requests the Secretary-General to report to the Commission at its fifty-second session on progress made in this matter, including:

(a) The latest list of experts; and

(b) A standard arrangement or cooperation service agreement regulating the use of forensic experts, as well as to make such recommendations as he may consider appropriate;

7. Decides to consider the question at its fifty-second session under the agenda item entitled "Question of the human rights of all persons subjected to any form of detention or imprisonment";

8. Also decides to recommend to the Economic and Social Council the following draft decision for adoption:

"The Economic and Social Council, taking note of Commission on Human Rights resolution 1994/... of .. March 1994, approves the Commission's requests to the Secretary-General:

(a) To maintain and enlarge the list of forensic experts and experts in related fields who could be requested to help international mechanisms in the field of human rights, Governments and the Centre for Human Rights in providing technical and advisory services, advice in regard to the monitoring of human rights violations and training of local teams and/or assistance in the reunification of families of the disappeared;

(b) To provide appropriate resources, within existing overall United Nations resources, to fund the activities of the Centre for Human Rights in implementing Commission resolution 1994/...".

303

Distr.
LIMITED

E/CN.4/1994/L.44
1 March 1994

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Fiftieth session
Agenda item 10

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Argentina*, Australia, Austria, Belgium*, Bulgaria, Cameroon, Canada, Chile, Costa Rica, Cyprus, Czech Republic*, Finland, France, Germany, Hungary, Ireland*, Mauritius*, Norway*, Portugal*, Romania, Rwanda*, Senegal*, Slovakia*, Sweden*, Switzerland*: draft resolution

1994/... Question of arbitrary detention

The Commission on Human Rights,

Recalling its resolution 1985/16 of 11 March 1985, in which it requested the Sub-Commission on Prevention of Discrimination and Protection of Minorities to analyse the available information concerning the practice of administrative detention without charge or trial, and to make appropriate recommendations on the use of this practice,

Reaffirming articles 3, 9, 10 and 29 as well as other relevant provisions of the Universal Declaration of Human Rights,

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* In accordance with rule 69, para. 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Recalling articles 9, 10, 11 and 14 to 22 of the International Covenant on Civil and Political Rights,

Having taken note with appreciation, at its forty-seventh session, of the revised report by Mr. Louis Joinet on the practice of administrative detention (E/CN.4/Sub.2/1990/29 and Add.1) and of the recommendations formulated therein,

Recalling that the General Assembly, in its resolution 43/173 of 9 December 1988, adopted the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, which also covers administrative detention, and that, consequently, there is no longer a purpose in treating the question of administrative detention independently, even if, in certain cases, the procedure of administrative detention gives rise to specific abuse,

Recalling also its resolutions 1991/42 of 5 March 1991, 1992/28 of 28 February 1992 and 1993/36 of 5 March 1993,

Having considered the report of the Working Group (E/CN.4/1994/27),

Having heard the comments made during the fiftieth session of the Commission,

1. Expresses its appreciation to the Working Group on Arbitrary Detention for the conscientiousness with which it has defined its working methods and for the way in which it carries out its task, more particularly for recalling the importance that it attaches to respect for the adversarial procedure in its dialogue with States, and to seeking the cooperation of all those concerned by the cases submitted to it for consideration;

2. Takes note with satisfaction of the Working Group's report, inter alia its point-by-point examination of the requests made in resolution 1993/36, and thanks the experts for the rigour with which they have performed their task, in the light of the very specific nature of their mandate of investigating cases;

3. Requests the Working Group to continue, in discharging its mandate, to seek and gather information from Governments and intergovernmental and non-governmental organizations, as well as from the individuals concerned, their families or their legal representatives;

4. Invites the Working Group to continue to take account of the need to carry out its task with discretion, objectivity and independence and to continue to improve its methods of work within the framework of its mandate;

5. Takes note of the "deliberations" adopted by the Working Group on issues of a general nature (see E/CN.4/1994/27, sect. II) with a view to achieving better prevention and to facilitating the consideration of future cases as well as helping to further strengthen the impartiality of its work;

6. Takes note also of the importance that the Working Group attaches to coordination with other mechanisms of the Commission as well as with the treaty-monitoring bodies, and invites it to persevere in its efforts;

7. Expresses its profound thanks to Governments which have extended their cooperation to the Working Group and responded to its requests for information, and asks all Governments concerned to demonstrate the same spirit of cooperation;

8. Requests Governments concerned to give the necessary attention to the "urgent appeals" addressed to them by the Working Group on a strictly humanitarian basis and without prejudging the character of the detention;

9. Calls upon Governments concerned to pay due heed to the Working Group's decisions and, where necessary, to take appropriate steps and inform the Working Group, within a reasonable period of time, of the follow-up to the Group's recommendations so that it can report thereon to the Commission;

10. Encourages Governments to implement the recommendations of the Working Group concerning persons who have been detained for a number of years and are mentioned in the report of the Working Group;

11. Encourages Governments to consider inviting the Working Group to their countries so as to enable the Group to discharge its protection mandate even more effectively and to make concrete recommendations concerning the promotion of human rights, in the spirit of the advisory or technical assistance services;

12. Welcomes the fact that the Working Group has been informed of the release of many individuals whose situation had been brought to its attention;

13. Expresses its concern at the fact that most cases of arbitrary deprivation of liberty are motivated by exercise of the right to freedom of opinion and expression;

14. Notes with concern that, according to the Working Group, the practice of arbitrary detention is facilitated and aggravated by several factors such as abuse of states of emergency, exercise of the powers specific to states of emergency without a formal declaration, non-observance of the principle of

proportionality between the gravity of the measures taken and the situation concerned, too vague a definition of offences against State security, and the existence of special or emergency jurisdictions;

15. Encourages States to endeavour to take appropriate measures to ensure that their legislation in these fields is in conformity with the relevant international instruments;

16. Also encourages States, in accordance with its resolution 1992/35 of 28 February 1992, entitled "Habeas corpus", and with the recommendations of the Working Group, to establish a procedure such as habeas corpus as a personal right not subject to derogation, including during states of emergency;

17. Requests the Secretary-General to ensure that the Working Group really receives all necessary assistance, particularly in regard to staffing and resources needed to discharge its mandate, including the organization, carrying out and follow-up of missions in countries wishing to invite the Working Group;

18. Decides to extend for a three-year period the mandate of the Working Group, composed of five independent experts, with the task of investigating cases of detention imposed arbitrarily or otherwise inconsistently with the relevant international standards set forth in the Universal Declaration of Human Rights or in the relevant international legal instruments accepted by the States concerned;

19. Requests the Working Group to submit a report to the Commission, at its fifty-first session, and to make any suggestions and recommendations which would enable it to discharge its task even better, particularly in regard to ways and means of ensuring effective follow-up to its decisions, in cooperation with Governments and to continue its consultations to that end;

20. Decides to continue its consideration of the question at its fifty-first session under the agenda item entitled "Question of the human rights of all persons subjected to any form of detention or imprisonment".

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(304)

Distr.
LIMITED

E/CN.4/1994/L.45
28 February 1994

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Fiftieth session
Agenda item 10 (c)

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR: (c) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES

Argentina*, Australia, Austria, Belgium*, Bulgaria, Cameroon, Chile, Costa Rica, Czech Republic*, Denmark*, Finland, France, Hungary, Ireland*, Italy, Luxembourg*, Mauritius, New Zealand*, Norway*, Poland, Romania, Russian Federation, Rwanda*, Senegal*, Slovakia*, Spain*, Sweden*, Switzerland*: draft resolution

1994/... Question of enforced disappearances

The Commission on Human Rights,

Bearing in mind General Assembly resolution 33/173 of 20 December 1978, in which the Assembly requested the Commission on Human Rights to consider the question of disappeared persons with a view to making appropriate recommendations, and all other United Nations resolutions concerning missing or disappeared persons,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Recalling its resolution 20 (XXXVI) of 29 February 1980, in which it decided to establish a working group consisting of five of its members, to serve as experts in their individual capacity, to examine questions relevant to enforced or involuntary disappearances, and its resolutions 1991/41 of 5 March 1991, 1992/30 of 28 February 1992 and 1993/35 of 5 March 1993,

Recalling also General Assembly resolution 47/133 of 18 December 1992, by which the General Assembly adopted the Declaration on the Protection of All Persons from Enforced Disappearance,

Emphasizing that, in the Vienna Declaration and Programme of Action, the World Conference on Human Rights, held in Vienna from 14 to 25 June 1993, welcomes the adoption of the Declaration on the Protection of All Persons from Enforced Disappearance and calls upon all States to take effective legislative, administrative, judicial or other measures to prevent, terminate and punish acts of enforced disappearances,

Noting that the Working Group on Enforced or Involuntary Disappearances considers the adoption of the latter Declaration to be the most encouraging development since its establishment in respect of efforts to combat enforced disappearances, especially in so far as it recognizes that the systematic practice of such acts "is of the nature of a crime against humanity",

Expressing concern in this connection that, according to the Working Group, the legislation, policy and practice of many States run counter to the provisions of the Declaration,

Convinced of the need to continue implementing the provisions of General Assembly resolution 33/173 and of the other United Nations resolutions on the question of disappeared persons, with a view to finding solutions for cases of disappearance and eliminating enforced disappearances, duly taking into account the provisions of the Declaration,

Noting General Assembly resolution 47/132 of 18 December 1992,

Deeply concerned at the persistence of the practice of enforced disappearances in various parts of the world,

Concerned at the large number of reports concerning harassment, ill-treatment and intimidation of witnesses of disappearances or relatives of disappeared persons,

Recalling in this connection its resolution 1993/64 of 10 March 1993 on cooperation with representatives of United Nations human rights bodies,

Noting with satisfaction in this connection that the Working Group reports increased cooperation on the part of most States,

Emphasizing the relevance of its resolution 1993/33 of 5 March 1993 on forensic science to the activities of the Working Group and noting with appreciation the establishment by the Secretary-General of a list of experts in this field,

Having considered the report of the Working Group (E/CN.4/1994/26 and Add.1),

1. Expresses its appreciation to the Working Group on Enforced or Involuntary Disappearances for the way in which it is performing its task, and thanks it for submitting a report to the Commission in accordance with resolution 1993/35;

2. Takes notes of the report of the Working Group;

3. Requests the Working Group, in its efforts to help to eliminate the practice of enforced disappearances, to submit to the Commission all information it deems necessary and any specific recommendation it may wish to make regarding the fulfilment of its task;

4. Reminds the Working Group of the need to observe, in its humanitarian task, United Nations standards and practices regarding the handling of communications and the consideration of Government replies;

5. Invites all Governments to take appropriate legislative or other steps to prevent and punish the practice of enforced disappearances, with special reference to the Declaration on the Protection of All Persons from Enforced Disappearance, and to take action to that end nationally, regionally and in cooperation with the United Nations;

6. Recalls in this regard that all acts of enforced disappearance are offences punishable by appropriate penalties which take into account their extreme seriousness under criminal law;

7. Notes with concern that, as the Working Group stresses in its report (para. 539), some Governments have never provided substantive replies concerning enforced disappearances alleged to have occurred in their countries;

8. Deplores the fact that, as the Working Group points out in its report, some Governments have not acted on the recommendations concerning them made in the reports of the Working Group, and requests the Working Group to continue to submit to the Commission information on the follow-up to its recommendations;

9. Urges the Governments concerned, particularly those which have not yet responded to communications transmitted to them by the Working Group, to cooperate with and assist the Working Group so that it may carry out its mandate effectively, and in particular to reply expeditiously to its requests for information;

10. Also urges the Governments concerned to intensify their cooperation with the Working Group on any action taken pursuant to recommendations addressed to them by the Working Group;

11. Once again urges the Governments concerned to take steps to protect the families of disappeared persons against any intimidation or ill-treatment to which they might be subjected;

12. Encourages the Governments concerned to give serious consideration to inviting the Working Group to visit their countries so as to enable the Working Group to fulfil its mandate even more effectively;

13. Urges Governments to take steps to ensure that, when a state of emergency is introduced, the protection of human rights is guaranteed, particularly as regards the prevention of enforced disappearances;

14. Reminds Governments of the need to ensure that their competent authorities conduct prompt and impartial inquiries [in all circumstances] whenever there is reason to believe that an enforced disappearance has occurred in a territory under their jurisdiction;

15. Further recalls that, if allegations are confirmed, perpetrators should be prosecuted;

16. Expresses its profound thanks to the many Governments that have cooperated with the Working Group and replied to its requests for information, and to the Governments that have invited the Working Group to visit their countries, asks them to give all necessary attention to the Working Group's recommendations, and invites them to inform the Working Group of any action they take on those recommendations;

17. Requests the Working Group, pursuant to its mandate, to take into account the provisions of the Declaration on the Protection of All Persons from Enforced Disappearance, and to modify its working methods if necessary;

18. Invites the Working Group to assess the practice of States in the light of the Declaration, to identify obstacles to the realization of the provisions of the Declaration and to recommend ways of overcoming those obstacles, taking into account the discussions of the Sub-Commission on Prevention of Discrimination and Protection of Minorities;

19. Encourages States, as some have already done, to provide concrete information on measures taken to give effect to the Declaration, as well as obstacles encountered;

20. Invites the Working Group to continue to consider the question of impunity, in close collaboration with the rapporteurs appointed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities and with due regard for the relevant provisions of the Declaration;

21. Takes note, in this connection, of the first determining elements identified by the Working Group, inter alia habeas corpus, the proper functioning of justice, the protection of persons involved in any way in the investigation from any kind of reprisals, the initiation of inquiries and their continuation pending clarification of the victims' fate, and the trial by civilian courts of alleged perpetrators, who should not benefit from any special amnesty law or other similar measures having the effect of exonerating them from any prosecution or penal sanction;

22. Requests the Working Group to pay attention to cases of children subjected to enforced disappearance and children of disappeared persons and to cooperate closely with the Governments concerned to search for and identify these children;

23. Endorses the proposal of the Working Group to establish a special procedure concerning the question of enforced disappearances in the territory of the former Yugoslavia under the joint responsibility of a member of the Working Group and the Special Rapporteur on human rights in the former Yugoslavia;

24. Requests the Working Group to report on its work to the Commission at its fifty-first session and to continue to discharge its mandate discreetly and conscientiously;

25. Requests the Secretary-General to ensure that the Working Group really receives all necessary assistance, in particular the staff and resources it requires to perform its functions, especially in carrying out missions, following them up or holding sessions in countries that would be prepared to receive it;

26. Also requests the Secretary-General to keep the Working Group and the Commission on Human Rights regularly informed of the steps he takes to secure the widespread dissemination and promotion of the Declaration on the Protection of All Persons from Enforced Disappearance.